

Remarks:

In the September 14, 2004, Office Action, it was noted that Applicants' nonpublication request was not rescinded, that the invention disclosed in the present patent application is the subject of WO 2002/061955, EP 1330882, and AU 2002249880, and that there was no notification of the foreign (or multilateral) filings. Accordingly, it was indicated that the application would be held abandoned, and that Applicants should file a petition under 37 CFR 1.137(b)(f).

It was indicated that in response to the papers filed on November 29, 2002, the inventorship of the present patent application has been changed to add Wade C. Patterson as an inventor, and that the application will be forwarded to the Office of Initial Patent Examination ("OIPE") for issuance of a corrected filing receipt, and correction of USPTO records to reflect the inventorship as corrected.

On the merits, Claims 1-11 were rejected under 35 U.S.C. Section 102(b) as being anticipated by Skell et al. (PCT International Publication No. WO 99/50172).

First, with regard to the failure to withdraw the nonpublication request, Applicants are concurrently filing a Petition to Revive. That document is not included with this Amendment B since it is directed to a different mail stop. Applicants were unaware of this issue, since prior counsel for Applicants evidently made this error in the present application and a number of other related Applications, and Applicants' undersigned attorney is currently in the process of correcting these errors. Applicants gratefully

acknowledge the Examiner's notation of this issue, and are sincerely appreciative of the Examiner bringing the issue to Applicants' attention.

With regard to the claims which were pending, Applicants have cancelled Claim 8 without prejudice and amended Claims 1-7 and 9-11.

Applicants' invention is directed to a system for processing IR signals used to control the flow of water from a faucet. The crux of Applicants' invention is that both the presence of an object in the sensed area and the presence of motion are used to control the flow of water from the faucet. No previous device known to Applicants, including the Skell et al. reference, performs this function.

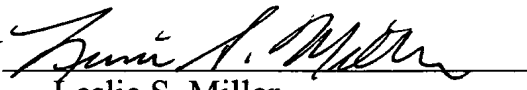
The Skell et al. reference does not sense motion. Rather, Skell et al. senses both a cup and the position of liquid in the cup. What Skell et al. is capable of doing is sensing the level of liquid in a cup which is being held and hence may be moving as it is being filled. This is not the same as sensing motion, and in fact is completely different.

Accordingly, Applicants' invention as claimed in the amended claims clearly is patentably distinct from the Skell et al. reference, and the Examiner's reconsideration of the claims as amended is respectfully requested.

Accordingly, Applicant believes that Claims 1-7 and 9-11 are patentable at this time. These claims remain pending following entry of this Amendment B, and are in condition for allowance at this time. As such, Applicant respectfully requests entry of the present Amendment B and reconsideration of the application, with an early and favorable

decision being solicited. Should the Examiner believe that the prosecution of the application could be expedited, the Examiner is requested to call Applicant's undersigned attorney at the number listed below.

Respectfully submitted:

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